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RECORDATION NO. 22965-Q FILED

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SURFACE TRANSPORTATION BOARD

September 28, 2007

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of September 28, 2007, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the documents previously filed with the Board under Recordation Number 22965-E and -M.

The names and addresses of the parties to the enclosed document are:

Buyer: Babcock & Brown Rail Funding LLC
1 Dag Hammarskjold Plaza
885 Second Avenue, 49th Floor
New York, NY 10017

Seller: The CIT Group/Equipment Financing, Inc.
11 West 42nd Street
New York, NY 10017

Mr. Vernon A. Williams
September 28, 2007
Page 2

A description of the railroad equipment covered by the enclosed document is:

26 covered hopper railcars within the series CEFX 95072 – CEFX 95716 as more particularly set forth in the equipment schedule attached to the document.

A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$35.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alvord', with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem
Enclosures

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ASSIGNMENT AND ASSUMPTION AGREEMENT I**SURFACE TRANSPORTATION BOARD**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of September 28, 2007 (this "**Agreement**"), is between **THE CIT GROUP/EQUIPMENT FINANCING, INC.**, a Delaware corporation (the "**Seller**"), and **BABCOCK & BROWN RAIL FUNDING LLC**, a Delaware limited liability company (the "**Buyer**").

W I T N E S S E T H:

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement dated as of September 28, 2007 (the "**Purchase Agreement**"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer on the date hereof.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.
2. Assignment. Effective as to each item of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing Obligations, under each of the following as they relate to such items of Equipment:
 - (a) Master Railcar Lease made as of June 8, 2000, by and between the Seller and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company (the "**Lease**");
 - (b) Schedule No. 07 to Master Railcar Lease made as of May 30, 2001, by and between the Seller and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company;
 - (c) Extension to Lease Schedule No. 07 entered into as of February 8, 2005 and effective as of July 1, 2005, by and between the Seller and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company;
 - (d) Memorandum of Railcar Lease dated as of May 30, 2001, by and between the Seller and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company;
 - (e) Memorandum of Lease Extension dated as of February 8, 2005, by and between the Seller and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company; and

(f) Amendment No. 01 to Full Service Master Railcar Lease entered into as of June 8, 2000 and effective as of September 7, 2007, by and between the Seller and Phoenix Cement Company, a division of the Salt River Pima-Maricopa Indian Community (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the lessor under the Assigned Operative Agreements, except to the extent constituting Existing Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: as to any one or more items of Equipment, a bill of sale in the form of Exhibit B hereto.

Closing Date: as to any one or more items of Equipment and related Ownership Interest the date of the Bill of Sale with respect thereto.

Equipment: the items of equipment listed on Exhibit A hereto, together with each and every part, accessory, component and any equipment installed therein or attached thereto owned by the Seller (individually such railcars shall be referred to as an "item" or "items of Equipment").

Existing Obligations: any and all liabilities and obligations of Seller under the Ownership Interest, including the Assigned Operative Agreements, or otherwise relating to the Equipment in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by Seller prior to the Closing Date.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Assigned Operative Agreements, except the Existing Obligations.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.6 of the Purchase Agreement.

7. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

10. Recordation. The Seller and the Buyer agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease, which shall have been recorded with the Surface Transportation Board.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

**THE CIT GROUP/EQUIPMENT
FINANCING, INC., as Seller**

By: Nancy A. Nardella
Name: Nancy A. Nardella
Title: Vice President

**BABCOCK & BROWN RAIL FUNDING
LLC, as Buyer**


By: _____
Name:
Title:

State of New York)
) ss.:
County of New York)

On this, the 25th day of September, 2007, before me, a Notary Public in and for said County and State, personally appeared Nancy A. Nardella, a Vice President of The CIT Group/Equipment Financing, Inc., who acknowledged himself to be a duly authorized officer of The CIT Group/Equipment Financing, Inc., and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: _____


Notary Public

Francis X. Nolan, III
Notary Public, State of New York
No. 02NO5026790
Qualified in New York County
Commission Expires June 5, 2010

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

**THE CIT GROUP/EQUIPMENT
FINANCING, INC., as Seller**

By: _____

Name: Nancy A. Nardella

Title: Vice President

**BABCOCK & BROWN RAIL FUNDING
LLC, as Buyer**

By:  _____

Name: Larry Littlefield

Title: Vice President

State of New York)
) ss.:
County of New York)

On this, the 25th day of September, 2007, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield, the Vice President of Babcock & Brown Rail Funding LLC, who acknowledged himself/~~herself~~ to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he/~~she~~ executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Indra Bedasie
Notary Public

INDRA BEDASIE
Notary Public, State of New York
My Commission Expires: No. 01BE6014602
Qualified in Queens County
Residing in: Certificate Filed In New York County
Commission Expires October 19, 2010

**EXHIBIT A
TO ASSIGNMENT
AND ASSUMPTION AGREEMENT**


EQUIPMENT

<u>Lessee</u>	<u>Cars</u>	<u>Year Built</u>	<u>AAR Code</u>	<u>Description</u>	<u>Manufacturer</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
Phoenix Cement Company	26	1999- 3, 2000- 22, 2001- 1	C612	3230 c.f., p.d. covered hopper cars	Thrall	CEFX 95072, 95080, 95084, 95397, 95432, 95448-95450, inclusive, 95469, 95475, 95476, 95485-95495, inclusive, 95497, 95498, 95500, and 95716	None

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 9/28/07



Robert W. Alvord